

REMARKS

The Applicants thank the Examiner for the timely allowance of claims 10-15 and 25-34 in the present application (the '392 application). Claims 1-9 and 16-24 stand rejected based solely on a provisional nonstatutory obviousness-type double patenting rejection over claims 10, 14, 20, 22 and 24 of copending U.S. patent application number 10/103,460 (the '460 application). Indeed, the '460 application has similarly been made the subject of rejection based solely on provisional obviousness-type double patenting with respect to certain claims of the '392 application.

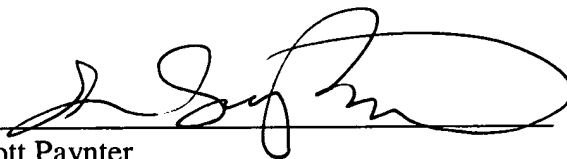
Under these circumstances, the Manual of Patent Examining Procedure (MPEP) §804 I. Subsection B. is instructive:

“If the “provisional” double patenting rejections in both applications are the only rejections remaining in those applications, the examiner should then withdraw that rejection in one of the applications (e.g., the application with the earlier filing date) and permit the application to issue as a patent. The examiner should maintain the double patenting rejection in the other application as a “provisional” double patenting rejection which will be converted into a double patenting rejection when the one application issues as a patent.”

In view of this guidance, it is believed that the provisional double patenting rejection should be removed in the '392 application and be made permanent in the '460 application.

In view of the foregoing, reconsideration of the present application is respectfully requested. The Examiner is encouraged to contact the undersigned regarding any outstanding matters concerning the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Scott Paynter', written over a horizontal line.

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